IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 6841 of 2005

SMT. NIRMALA PRAKASH
V/S
RAJ.HOUSHING BOARD & ORS.

Mr. GIRISH SANKHALA, for the appellant / petitioner

Mr. PC SHARMA, for the respondent

Date of Order : 24.1.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

In para-6, the petitioner has alleged that the petitioner has already deposited Rs.1,50,000/-, and an impression was sought to be created by pleading, that a demand of Rs.2,11,480/- was made vide Annex.11, and being persuaded with the statement, this Court vide order dated 29.11.2005, while issuing notices, directed that the house shall not be auctioned, if the petitioner deposits another sum of Rs.50,000/-. Today learned counsel for the petitioner informed that this Rs.1,50,000/- was already deposited by the seller, from whom the petitioner purchased.

A look at Annex.11 shows, that a complete break up of the amount of Rs.2,11,480/- has been given, being interest on the due installments, due installments upto

January 2005, and other charges leviable, and from out of the total, the amount deposited being Rs.5772/- has already been deducted. It has not been shown that any amount has been deposited in pursuance of Annex.11 or Annex.12 except the amount of Rs.50,000/- deposited pursuant to the interim order of this Court dated 29.11.2005.

In that view of the matter, to say the least, the petitioner is clearly guilty of mis-statement of fact. That apart, Annex.11 is as old as 15.1.2005, and the petitioner was called upon to deposit the amount, or show the receipt upto 31.1.2005, not only this, when the petitioner failed to deposit, on 9.11.2005, a notice, Annex.12 was issued calling upon the petitioner to produce the copy of the challan within 7 days, if the amount had been deposited upto 31.1.2005. Not only this, it was further directed that if the amount had not been deposited, then it may be deposited even now alongwith penalty upto 30.11.2005, else the regularisation would be cancelled, and tenement would be auctioned for recovery of the balance amount. Since admittedly, the amount had, even substantially if not technically fully, not been deposited, whether as stipulated by Annex.11, or even as stipulated by Annex.12, and the writ was filed challenging Annex.12, in which I do not find any error.

The net result of the aforesaid discussion is

that I am not inclined to entertain the petition. The same is, therefore, dismissed summarily. The amount deposited pursuant to the order of this Court dated 29.11.2005 may be refunded to the petitioner within two weeks.

(N P GUPTA),J.

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